

**Landmark Installations, Inc. and Local Union No. 272
and Shopmen's Local Union No. 698 of the In-
ternational Association of Bridge, Structural,
Ornamental, and Reinforcing Ironworkers.**
Cases 12-CA-21376 and 12-CA-21441

December 16, 2004

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN
AND WALSH

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification.

On June 30, 2003, the National Labor Relations Board issued a Decision and Order¹ that, among other things, ordered the Respondent to make whole certain discriminatees for any loss of earnings and benefits they may have suffered as a result of the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the Act. On November 5, 2003, the Respondent entered into a stipulation waiving its rights under Section 10(e) and (f) of the Act to contest either the propriety of the Board's Decision and Order, or findings of fact and conclusions of law underlying that Order before the United States Court of Appeals, and providing for a compliance hearing to resolve any disputes concerning the amount of backpay due under the terms of the Board's Order. The Regional Director approved the stipulation on December 2, 2003.

A controversy having arisen over the amount of backpay due the discriminatees, on August 19, 2004, the Regional Director issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order. The compliance specification notified the Respondent that it should file an answer by September 9, 2004, complying with the Board's Rules and Regulations. The Respondent failed to file an answer.

By letter dated September 15, 2004, the Acting Compliance Officer for Region 12 advised the Respondent that no answer to the compliance specification had been received and that unless an answer was filed by September 27, 2004, a motion for default judgment would be filed.

By letter dated September 29, 2004, the Respondent filed a request for a 1-week extension of time to file an answer to the compliance specification. On that same date, the Regional Director granted the requested extension of time to October 6, 2004. Despite this extension, however, the Respondent did not file an answer.

¹ 339 NLRB 422.

On October 8, 2004, the Acting Compliance Officer for Region 12, by letter, advised the Respondent that if it failed to file an answer to the compliance specification by October 15, 2004, a motion for default judgment would be filed. To date, the Respondent has not filed an answer.

On November 12, 2004, the General Counsel filed with the Board a motion for summary judgment, with exhibits attached. On November 19, 2004, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Default Judgment, the Respondent, despite having been advised of the filing requirements and granted three extensions of time, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order the Respondent to pay those amounts to the discriminatees, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Landmark Installations, Inc., Pompano Beach, Florida, its officers, agents, successors, and assigns, shall make whole the discriminatees² named below by paying them the amounts following their names, plus

² As set forth in the compliance specification, no backpay remedy is being sought for discriminatees Luis Gonzalez and Raidel Rivero.

interest as set forth in *New Horizons for the Retarded*, required by Federal and State laws:
 283 NLRB 1173 (1987), and minus tax withholdings

DISCRIMINATEE	NET BACKPAY	FICA MATCH	SUM TOTAL
Adolfo Gonzalez	\$ 2,918.88	\$ 223.29	\$3,142.17
Lawrence Hodgson	\$11,482.46	\$ 878.41	\$12,360.87
Bertie Gottshaw	\$ 0.00	\$ 0.00	\$ 0.00
Jose Zapata	\$32,038.65	\$2,450.96	\$34,489.61
TOTAL	\$46,439.99	\$3,552.66	\$49,992.65